12/27/2016 4:34:04 PM
Velva L. Price
District Clerk
Travis County
D-1-GN-16-006159
Irene Silva

NO. D-1-GN-16-006159

SAJHRESA HILL, individually and on behalf of all others similarly situated,	*	**IN THE DISTRICT COURT**
Plaintiff	*	
	*	**261ST JUDICIAL DISTRICT**
v.	*	
	*	
SCOTT & ASSOCIATES, P.C.,	*	
Defendant	*	**TRAVIS COUNTY, TEXAS**

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE COURT:

NOW COMES Plaintiff, Sajhresa Hill, individually and on behalf of others similarly situated ("Plaintiff" herein), and complains of Defendant, Scott and Associates, P.C. ("S & A" herein), and for cause of action shows the following:

DISCOVERY CONTROL PLAN
I.

1. Discovery is requested to be a Level Three Control Plan as per the Texas Rules of Civil Procedure.

PARTIES AND SERVICE
II.

2. Plaintiff, Sajhresa Hill, is a natural person, who resides in Travis County, Texas and brings this action on her own behalf and as representative of the Plaintiff Class ("Class" herein) hereinafter described.

3. Defendant, Scott and Associates, P.C. is a Texas professional corporation and may be served with process by serving its registered agent, National Registered Agents, Inc. at the following address:

National Registered Agents, Inc.
1999 Bryan St., Ste. 900
Dallas, TX 75201-3136 USA

JURISDICTION AND VENUE
III.

4. The subject matter in controversy is within the jurisdictional limits of this court. Moreover, in accordance with Texas Rule of Civil Procedure 47, the damages claimed are for monetary relief over $1,000,000.00.

5. This court has jurisdiction over the parties because Defendant is believed to maintain its principal office in Texas and the underlying event that is the basis of this suit occurred in Texas.

6. Venue in Travis County is proper in this cause under Section §15.002(a)(1) of the Texas Civil Practice and Remedies Code as the underlying claims that are the basis of this suit occurred in Travis County.

7. Jurisdiction in this Court is proper because the events giving rise to this controversy occurred in Travis County, Texas. Jurisdiction is also proper in this Court because an action to enforce liability under the FDCPA may be brought in any court of competent jurisdiction. 15 U.S.C. §1692(k)(d).

FACTS AND PROCEDURAL HISTORY
IV.

8. This is a class action lawsuit for claims under the Texas Debt Collection Act ("TDCA"), Chapter 392 of the Texas Finance Code and the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692, *et seq*. Specifically, Plaintiffs allege that S &A is acting illegally as a debt collector in Texas due to its failure to maintain a $10,000.00 surety bond as required by Chapter 392, Section 101 of the Texas Finance Code.

9. Plaintiff, Sajhresa Hill, is an individual who incurred the alleged debt for goods and services used for personal, family or household purposes, originally for monies owed relating to Synchrony Bank consumer credit card. The alleged debt is thus both a "debt" as that term is defined at §1692(a)(5) of the FDCPA and a "consumer debt" as that term is defined at §392.001(2) of the TDCA.

10. Due to Plaintiff's financial circumstances, she could not pay the alleged debt, and the alleged debt went into default.

11. The alleged debt was subsequently assigned or transferred to S & A for collection.

12. S & A is in the business of collecting defaulted consumer debts and judgments originally owed to other entities. Defendant S&A is thus a "debt collector" as that term is defined at §1692(a)(6) of the FDCPA.

13. S & A is a law firm that has non-attorney employees who regularly make contact with debtors for the purpose of collection or adjustment of debts and thus a "third-party debt collector" as that term is defined at §392.001(7) of the TDCA.

14. On or about December 1, 2016, S & A mailed a letter addressed to Plaintiff in connection with the collection of the alleged debt. A true and correct copy of the letter is attached hereto as Exhibit A and is incorporated by reference.

15. The letter conveyed information to Plaintiff regarding the alleged debts, including the identity of the current owner of the alleged debts, a file number, and a balance due. The letter was thus a "communication" as that term is defined at §1692(a)(2) of the FDCPA and "debt collection" as that term is defined at §392.001(5) of the TDCA.

16. However, at the time that S & A sent the subject letter to Plaintiff (Exhibit A), S & A did not have a $10,000.00 bond on file with the Texas Secretary of State. A true and correct copy of a certificate of fact from the Texas Secretary of State indicating S & A does not have the requisite bond is attached hereto as Exhibit B and is incorporated by reference. Therefore, S & A illegally engaged in debt collection practice in the state of Texas at the time it sent Exhibit A to Plaintiff and at all times that it engaged in debt collection with other class members.

CAUSE OF ACTION
V.

Count 1 - Violation of the Texas Debt Collection Act

17. Chapter 392, Section 101 of the Texas Finance Code provides as follows:

BOND REQUIREMENT

(a) A third-party debt collector or credit bureau may not engage in debt collection unless the third-party debt collector or credit bureau has obtained a surety bond issued by a surety company authorized to do business in this state as prescribed by this section. A copy of the bond must be filed with the secretary of state.

DISTRICT COURT OF TRAVIS COUNTY TEXAS

18. S & A violated the TDCA by sending the attached letter to Plaintiff and engaging in debt collection with all class members without first obtaining and filing the required surety bond with the secretary of state.

Count 2 - Violation of the Fair Debt Collection Practices Act - §1692(e) and §1692(f)

19. 15 U.S.C. §1692(f) of the FDCPA provides as follows:

UNFAIR PRACTICES

(a) A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt.

20. The FDCPA is a strict liability statute, and only one violation of the FDCPA is necessary to establish civil liability. *See In re Eastman*, 419 B.R. 711, 728 (Bankr.W.D.Tex. 2009) (stating that a false representation need not be intentional to be actionable under 1692e (citing *Pittman v. J.J. Mac Intyre Co.*, 969 F.Supp. 609, 613 (D. Nev. 1997))). As such, "the defendant's culpability is a consideration only in computing damages under the FDCPA." *Pittman*, 969 F.Supp. at 613 (citing 15 U.S.C. 1692(k)(b)).

21. S & A violated the FDCPA attempting to collect a consumer debt in Texas without having first filed a $10,000.00 surety bond with the Texas Secretary of State. At the very least, such action is unfair both to Plaintiff and to "debt collectors who refrain from using abusive debt collection practices" who are competitively disadvantaged.

DISTRICT COURT OF TRAVIS COUNTY TEXAS

22. 15 U.S.C. §1692(f)

FALSE OR MISLEADING REPRESENTATIONS

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt.

23. In addition, in light of the fact that S & A does not have the legal right to act as a debt collector in Texas, any representations that S & A made to consumers that it was a debt collector, notwithstanding the fact it was engaged in debt collection, were false and misleading statement under §1692(f).

Count 3 - Injunctive Relief

24. Plaintiff requests that the Court grant equitable injunctive relief prohibiting and restraining S & A from engaging in debt collection in Texas without the requisite $10.000.00 bond as required by Chapter 392, Section 101 of the Texas Finance Code.

Request for Attorneys' Fees

25. Plaintiff seeks reasonable attorneys' fees as per the TDCA and FDCPA and any other statutory or common law basis.

CLASS ACTION
VI.

26. This action is brought by the named Plaintiff as a class action on behalf of herself and on behalf of others similarly situated ("Class" herein) under Texas Rule of Civil Procedure 42.

27. There are common questions of law and fact that related to or affect the rights and interests of each member of the Class against the Defendant S & A.

28. Although Plaintiff does not know of the exact number of class members at this time, the Class contains debtors who received debt collection notices from S & A and/or were subject to debt collection efforts by S & A during over the last one year prior to the filing of this lawsuit.

29. The relief sought by Class are essentially identical to the individual Plaintiff. The claims of the Plaintiff are typical to the claims of the Class in that all members of the Class received debt collection notices and/or subject to debt collection efforts by S & A during the time that S & A was not authorized to engage in debt collection in Texas.

30. The Plaintiff is the representative party for the Class and she is able to fairly and adequately represent the interest of the Class. No know conflict exists between the Plaintiff and the Class.

31. The claims in this lawsuit are more properly pursued as a class action as 1) the individual prosecution of the underlying could create inconsistent results and 2) there are common questions of law and fact common to the Class.

32. All of the claims of Plaintiff in this lawsuit and the Class were caused by the same set of facts and act and omissions of Defendant.

33. The Plaintiff Class is defined as all debtors who received debt collection notices and/or were subject to collection activity by S & A in connection with consumer debts for a period beginning one year prior to the filing of this lawsuit to the present.

PRAYER
VII.

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Sajhresa Hill, individually and on behalf of others similarly situated, respectfully prays that the Defendant, Scott & Associates, P.C., be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff and the Class against Defendant as follows:

a. The Court certify as a class all similarly situated class members as alleged in this Petition;

b. The Court award Plaintiff, including the Class, actual and statutory damages pursuant to Texas Finance Code §392.403(a)(2);

c. The Court award Plaintiff, including the Class, costs and attorneys' fees pursuant to Texas Finance Code §392.403(b);

d. The Court award Plaintiff, including the Class, statutory damages pursuant to 15 U.S.C. §1692(k)(a)(2);

e. The Court award Plaintiff, including the Class, costs and reasonable attorneys' fees pursuant to 15 U.S.C. §1692(k)(a)(3) and any other applicable statute or legal basis;

f. The Court issue a permanent injunction against S &A precluding its operation as a debt collector in Texas until it complies with the applicable provision of the Texas Finance Code.

g. The Court award Plaintiff, including the Class, prejudgment and post judgment interest as allowed by law;

h. The Court grant Plaintiff, including the Class, such further relief to which Plaintiffs may be justly entitled.

Respectfully submitted,

/s/Brent A. Devere
Brent A. Devere
SBN#00789256
1411 West Avenue, Suite #200
Austin, Texas 78701
Ph: 512-457-8080 Fax: 512-457-8060
Email: BDevere@1411west.com

Tyler Hickle
State Bar No. 24069916
4005C Banister Lane, Suite. 120C
Austin, Texas 78704
Ph: (512) 289-3831 Fax: (512) 870-9505
Email: tylerhickle@hicklelegal.com

Attorneys for Plaintiff

DISTRICT COURT OF TRAVIS COUNTY TEXAS

EXHIBIT A

DISTRICT COURT OF TRAVIS COUNTY
TEXAS

SCOTT & ASSOCIATES PC

LICENSED IN AL, AZ, CA, DC, MD, MS, NY, PA, SC, TN, TX, & VA

ATTORNEYS AT LAW

Mailing Address:
PO Box 115220
Carrollton, Texas 75011-5220

Home Office
1120 Metrocrest Dr., Suite 100
Carrollton, Texas 75006-5062

Toll Free: (866) 298-3155
Hours of Operation (CST)
Monday-Friday: 8:00AM-6:00PM
helpdesk@sapalaw.com

December 1, 2016

Re: Unpaid Account Owed to: Midland Funding LLC
Original Creditor: Synchrony Bank
Original Account Number: XXXXXXXXXXXX5962
Total Amount Now Due: $2,296.80
Our File Number: MCM-999071

Dear Mr./Ms. Hill,

This law firm represents Midland Funding LLC in connection with the above-stated claim (the "Account"). Midland Funding LLC is the owner and holder of the Account and as of the writing of this letter, the amount owed on the Account is $2,296.80.

At this time, no attorney with this firm has personally reviewed the particular circumstances of your account. However, if you fail to contact this office, our client may consider additional remedies to recover the balance due.

If you cannot pay the full amount, you will need to call our office to make suitable payment arrangements.

Please call us at your earliest opportunity so that we can resolve this matter. Our number is **(866) 298-3155**.

Sincerely,
Scott & Associates, P.C.

* This law firm is a debt collector and this is an attempt to collect a debt. Any information obtained from you will be used by this law firm for that purpose. Unless you dispute the validity of the debt, or any portion thereof, within thirty days after you receive this letter, we will assume that the debt is valid. If, within this thirty-day period, you notify our law firm in writing that you dispute the debt, or any portion of the debt, we will obtain a verification of the debt from our client and a copy of such verification will be mailed to you by the firm. Within 30 days of your receipt of this letter, you may send to us a written request that we provide to you the name and address of the original creditor, if different from the current creditor, and we will do so.

CCSMJSP01DMJ-001

* * * Please Detach the Lower Portion and Return with your Payment in the Enclosed Envelope * * *

Our File No.: MCM-999071
Orig. Creditor: Synchrony Bank
Orig. Acct No.: XXXXXXXXXXXX5962
Total Amt. Due: $2,296.80

PO Box 115220
Carrollton TX 75011-5220

ADDRESS SERVICE REQUESTED

December 1, 2016

Please make your check payable to:
Michael J Scott, P.C. – IOLTA Account

285175340

Sajhresa Hill
6700 Luckenbach Ln
Austin TX 78729-7566

Scott & Associates, PC
Attorneys at Law
PO Box 113297
Carrollton TX 75011-3297

DISTRICT COURT OF TRAVIS COUNTY ★ TEXAS ★

EXHIBIT B

DISTRICT COURT OF TRAVIS COUNTY
TEXAS

The State of Texas

Secretary of State

Certificate of Fact

I, the undersigned, as Secretary of State of Texas, DO HEREBY CERTIFY that I am the official custodian of record for third-party debt collector surety bonds filed pursuant to Title 5, Texas Finance Code, §392.101. I further certify that after a diligent search of the records of this office there is no record of a surety bond filed with this office for a third-party debt collector by the name of:

SCOTT AND ASSOCIATES, PC

Issued this 12th day of December, 2016

Carlos Cascos
Secretary of State

rb

CIVIL CASE INFORMATION SHEET

CAUSE NUMBER *(FOR CLERK USE ONLY)*: ______________ COURT *(FOR CLERK USE ONLY)*: ______________

STYLED SAJHRESA HILL, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED V. SCOTT AND ASSOCIATES, P.C.
(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:

Name: Brent Allen Devere
Email: BDevere@1411west.com
Address: 1411 West Avenue, Suite #200
Telephone: 512-457-8080
City/State/Zip: Austin, Texas 78701
Fax: 512-457-8060
Signature: /s/ Brent Allen Devere
State Bar No: 00789256

Names of parties in case:

Plaintiff(s)/Petitioner(s):
SAJHRESA HILL, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED

Defendant(s)/Respondent(s):
SCOTT & ASSOCIATES, P.C.

[Attach additional page as necessary to list all parties]

Person or entity completing sheet is:

☒ Attorney for Plaintiff/Petitioner
☐ *Pro Se* Plaintiff/Petitioner
☐ Title IV-D Agency
☐ Other: ____

Additional Parties in Child Support Case:
Custodial Parent:
Non-Custodial Parent:
Presumed Father:

2. Indicate case type, or identify the most important issue in the case *(select only 1)*:

Civil

Contract
Debt/Contract
☐ Consumer/DTPA
☐ Debt/Contract
☐ Fraud/Misrepresentation
☒ Other Debt/Contract: FDCPA/TDCA
Foreclosure
☐ Home Equity—Expedited
☐ Other Foreclosure
☐ Franchise
☐ Insurance
☐ Landlord/Tenant
☐ Non-Competition
☐ Partnership
☐ Other Contract: ____

Injury or Damage
☐ Assault/Battery
☐ Construction
☐ Defamation
Malpractice
☐ Accounting
☐ Legal
☐ Medical
☐ Other Professional Liability: ____
☐ Motor Vehicle Accident
☐ Premises
Product Liability
☐ Asbestos/Silica
☐ Other Product Liability
List Product: ____
☐ Other Injury or Damage: ____

Real Property
☐ Eminent Domain/ Condemnation
☐ Partition
☐ Quiet Title
☐ Trespass to Try Title
☐ Other Property: ____

Related to Criminal Matters
☐ Expunction
☐ Judgment Nisi
☐ Non-Disclosure
☐ Seizure/Forfeiture
☐ Writ of Habeas Corpus—Pre-indictment
☐ Other: ____

Employment
☐ Discrimination
☐ Retaliation
☐ Termination
☐ Workers' Compensation
☐ Other Employment: ____

Other Civil
☐ Administrative Appeal
☐ Antitrust/Unfair Competition
☐ Code Violations
☐ Foreign Judgment
☐ Intellectual Property
☐ Lawyer Discipline
☐ Perpetuate Testimony
☐ Securities/Stock
☐ Tortious Interference
☐ Other: ____

Family Law

Marriage Relationship
☐ Annulment
☐ Declare Marriage Void
Divorce
☐ With Children
☐ No Children

Post-judgment Actions (non-Title IV-D)
☐ Enforcement
☐ Modification—Custody
☐ Modification—Other

Title IV-D
☐ Enforcement/Modification
☐ Paternity
☐ Reciprocals (UIFSA)
☐ Support Order

Other Family Law
☐ Enforce Foreign Judgment
☐ Habeas Corpus
☐ Name Change
☐ Protective Order
☐ Removal of Disabilities of Minority
☐ Other: ____

Parent-Child Relationship
☐ Adoption/Adoption with Termination
☐ Child Protection
☐ Child Support
☐ Custody or Visitation
☐ Gestational Parenting
☐ Grandparent Access
☐ Paternity/Parentage
☐ Termination of Parental Rights
☐ Other Parent-Child: ____

Tax
☐ Tax Appraisal
☐ Tax Delinquency
☐ Other Tax

Probate & Mental Health
Probate/Wills/Intestate Administration
☐ Dependent Administration
☐ Independent Administration
☐ Other Estate Proceedings
☐ Guardianship—Adult
☐ Guardianship—Minor
☐ Mental Health
☐ Other: ____

3. Indicate procedure or remedy, if applicable *(may select more than 1)*:

☐ Appeal from Municipal or Justice Court
☐ Arbitration-related
☐ Attachment
☐ Bill of Review
☐ Certiorari
☒ Class Action
☐ Declaratory Judgment
☐ Garnishment
☐ Interpleader
☐ License
☐ Mandamus
☐ Post-judgment
☐ Prejudgment Remedy
☐ Protective Order
☐ Receiver
☐ Sequestration
☐ Temporary Restraining Order/Injunction
☐ Turnover

DISTRICT COURT OF TRAVIS COUNTY TEXAS

4. Indicate damages sought *(do no select if it is a family law case):*

- ☐ Less than $100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorneys fees
- ☐ Less than $100,000 and non-monetary relief
- ☐ Over $100,000 but not more than $200,000
- ☐ Over $200,000 but not more than $1,000,000
- ☒ Over $1,000,000

Rev 2/13

DISTRICT COURT OF TRAVIS COUNTY TEXAS

Filed in The District Court
of Travis County, Texas

JAN 06 2017 NNR
At 1:12 P M.
Velva L. Price, District Clerk

CITATION
THE STATE OF TEXAS
CAUSE NO. D-1-GN-16-006159

SAJHRESA HILL, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED
, Plaintiff

vs.
SCOTT & ASSOCIATES, P.C.
, Defendant

TO: SCOTT & ASSOCIATES PC
BY SERVING ITS REGISTERED AGENT,
NATIONAL REGISTERED AGENTS, INC.
1999 BRYANT ST., STE 900
DALLAS, TEXAS 75201-3136

Defendant, in the above styled and numbered cause:

YOU HAVE BEEN SUED. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Attached is a copy of the PLAINTIFF'S ORIGINAL PETITION of the PLAINTIFF in the above styled and numbered cause, which was filed on DECEMBER 27, 2016 in the 261ST JUDICIAL DISTRICT COURT of Travis County, Austin, Texas.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at office, December 28, 2016.

REQUESTED BY:
BRENT ALLEN DEVERE
1411 WEST AVENUE, SUITE 200
AUSTIN, TX 78701
BUSINESS PHONE:(512)457-8080 FAX:(512)457-8060

Velva L. Price
Travis County District Clerk
Travis County Courthouse
1000 Guadalupe, P.O. Box 679003 (78767)
Austin, TX 78701

004974579

PREPARED BY: IRENE SILVA

-- - -- - -- - -- - -- - -- **RETURN** -- - -- - -- - -- - -- - --

Came to hand on the _____ day of _______________, ________ at ________ o'clock ____M., and executed at ____ within the County of ________________ on the _____ day of _______________, ________, at ________ o'clock ____M., by delivering to the within named ____, each in person, a true copy of this citation together with the PLAINTIFF'S ORIGINAL PETITION accompanying pleading, having first attached such copy of such citation to such copy of pleading and endorsed on such copy of citation the date of delivery.

SERVICE RETURN ATTACHED

Service Fee: $ ________

Sheriff / Constable / Authorized Person

Sworn to and subscribed before me this the

_____ day of _______________, ________.

AUSTIN PROCESS, LLC
809 NUECES
AUSTIN, TX 78701

Printed Name of Server

________________________ County, Texas

Notary Public, THE STATE OF TEXAS

D-1-GN-16-006159 SERVICE FEE NOT PAID **P01 - 000047413**

☐ Original ☐ Service Copy

AFFIDAVIT OF SERVICE

State of Texas **County of Travis** **261st Judicial District Court**

Case Number: D-1-GN-16-006159

Plaintiff:
Sajhresa Hill, individually and on behalf of all others similarly situated
vs.
Defendant:
Scott & Associates, P.C.

For: Brent Devere

Received by Austin Process LLC on the 30th day of December, 2016 at 10:57 am to be served on **Scott & Associates, P.C. by serving its Registered Agent, National Registered Agents, Inc., 1999 Bryan Street, Ste. 900, Dallas, TX 75201-3136**. I, Caleb Malone, being duly sworn, depose and say that on the 3 day of January, 2017 at 3:05 p.m., executed service by delivering a true copy of the **Citation, Plaintiff's Original Petition, Exhibits A and B, and Civil Case Information Sheet** in accordance with state statutes in the manner marked below:

( ) PUBLIC AGENCY: By serving ______ as ______ of the within-named agency.

( ) SUBSTITUTE SERVICE: By serving ______ as ______.

(X) CORPORATE SERVICE: By serving Laura Perez as Process Specialist.

( ) OTHER SERVICE: As described in the Comments below by serving ______ as ______.

( ) NON SERVICE: For the reason detailed in the Comments below.

COMMENTS: ______

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

Subscribed and Sworn to before me on the 3 day of January, 2017 by the affiant who is personally known to me.

[signature]
NOTARY PUBLIC

BETHANY PALLISTER
Notary ID # 129009133
My Commission Expires
June 2020

[signature]
PROCESS SERVER # SCH1574 exp 10/31/17
Appointed in accordance with State Statutes

Austin Process LLC
809 Nueces
Austin, TX 78701
(512) 480-8071

Our Job Serial Number: 2016009793
Ref: Sajhresa Hill

Copyright © 1992-2016 Database Services, Inc. - Process Server's Toolbox V7.1e

1/9/2017 2:49:30 PM
Velva L. Price
District Clerk
Travis County
D-1-GN-16-006159
Raeana Vasquez

CAUSE NO. D-1-GN-16-006159

SAJHRESA HILL,	§	IN THE DISTRICT COURT
Plaintiff,	§	
	§	
v.	§	261st JUDICIAL DISTRICT
	§	
SCOTT & ASSOCIATES, P.C.,	§	
	§	
Defendant.	§	TRAVIS COUNTY, TEXAS

DEFENDANT SCOTT & ASSOCIATES, P.C.'S ORIGINAL ANSWER TO PLAINTIFF'S COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Scott & Associates, P.C., Defendant herein, and files its Original Answer and would respectfully show unto the Court as follows:

GENERAL DENIAL

As authorized by Rule 92, Texas Rules of Civil Procedure, Defendants generally deny each and every, all and singular, the allegations found in Plaintiff's Original Petition and, since they are allegations of fact, the Plaintiff should be required to prove the allegations asserted against Defendant by a preponderance of the evidence in accordance with the laws of the State of Texas.

AFFIRMATIVE DEFENSES

1. Any violation if it occurred was the result of a bona fide error.

2. Plaintiff's damages if any are the result of the actions of third parties over whom Defendant has no control.

3. Plaintiff's damages, if any were pre-existing damages not caused by Defendant.

4. Plaintiff has failed to mitigate damages if any.

5. Plaintiff proximately caused her own damages, if any.

6. Conditions precedent have not been met and have not been waived.

7. Plaintiff has failed to state a claim against Defendant upon which relief can be granted.

8. Plaintiff has not suffered a concrete, injury-in-fact.

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully asks the Court to:

1) Find Plaintiff's claims are not valid.

2) Enter judgment that Plaintiff take nothing from these Defendants.

Respectfully submitted,

MALONE AKERLY MARTIN PLLC

/s/ Robbie Malone

ROBBIE MALONE
State Bar No. 12876450
Email: rmalone@mamlaw.com
EUGENE XERXES MARTIN, IV
State Bar No. 24078928
Email: xmartin@mamlaw.com
MALONE AKERLY MARTIN PLLC
Northpark Central, Suite 1850
8750 North Central Expressway
Dallas, Texas 75231
TEL: (214) 346-2630
FAX: (214) 346-2631

COUNSEL FOR DEFENDANT

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been forwarded to the following party via **CM/ECF,** on this 9th day of, January, 2017 to:

Brent A. Devere
SBN #00789256
1411 West Avenue, Suite #200
Austin, TX 78701
Ph: 512-457-8080
Fx: 512-457-8060
BDevere@1411west.com

Tyler Hickle
State Bar No. 24069916
4005C Banister Lane, Suite 120C
Austin, TX 78704
Ph: 512-289-3831
Fx: 512-870-9505
tylerhickle@hicklelegal.com

/s/ Robbie Malone
ROBBIE MALONE